





# INS Reporter

Immigration and Naturalization Service U.S. Department of Justice Winter 1979-1980



The Iranian Student Registration Program  
Improving Telephone Service to the Public  
Air Operations of the Border Patrol

# INS Reporter

Winter 1979-1980

The United States Department of Justice  
Benjamin R. Civiletti, Attorney General

Immigration and Naturalization Service  
David Crosland, Acting Commissioner

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## Immigration and Naturalization Service

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Cover: "Ask Immigration", a taped library system being used by INS, provides callers with information on immigration and citizenship matters. This enables a Contact Representative to handle up to 15 telephone lines at one time, resulting in better service to the public. The caller simply asks for information on a particular subject, and the operator inserts the tape cassette into the playback unit.

The opinions expressed are those of the authors and do not necessarily reflect the views or policies of the Immigration and Naturalization Service.

The Attorney General has determined that the publication of this periodical is necessary in the transaction of the public business required by law of this Agency. Use of funds for printing this periodical has been approved by the Director of the Office of Management and Budget through June 30, 1981.

Verne Jervis  
*Public Information Officer*

Janet R. Graham  
*Editor*



Green which resulted in a judgement for permanent injunction against the order.

The plaintiffs argued that the immigration regulation under 8 CFR 214.5 was unconstitutional as it did not give similar treatment to nonimmigrant students of other nationalities.

The Government's position was that the Attorney General has authority under the Immigration and Nationality Act to administer and enforce the laws relating to alien immigration and naturalization, to issue regulations governing the admission of nonimmigrant aliens, and to insure the departure of those individuals who violate the terms of their nonimmigrant status. Further, the Government asserted that foreign policy determinations of the President and the Attorney General are not subject to judicial review.

INS suspended the survey of Iranian students on December 11, 1979, after the permanent injunction halting the program was issued by the U.S. District Court. At that point, INS had completed interviews for 53,006 Iranians.

An emergency stay of that order was obtained by the Government from the U.S. Court of Appeals on December 14, 1979. Since the survey was suspended on December 11, the Attorney General on December 17, 1979, extended through December 31, 1979, the reporting period for Iranians who are in this country with student visas. Under the terms of the stay, INS did not enforce deportation proceedings against the students until the legality of the program was decided by the court.

The Government appealed the injunction before three of the nine Circuit Court Judges in the U.S. Court of Appeals for the District of Columbia. Arguments were heard on December 20, and on December 27, 1979, the court ruled the regulation promulgated by the Attorney General at the direction of the President, was constitutional and within the authority delegated by Congress. This ruling was later reaffirmed by the full U.S. Circuit Court of Appeals.

Returning to the task at hand, INS resumed interviewing the Iranian students and by the end of the reporting period on December 31, had interviewed more than 56,000 students. Over 49,000 were found to be in status. The accompanying table shows the results of those interviews.

United States Department of Justice  
Immigration and  
Naturalization Service  
Washington, D.C.

#### IRANIAN STUDENT REGISTRATION (NOVEMBER 14 — DECEMBER 31, 1979) AS OF FEBRUARY 29, 1980

Interviewed	58,894
In Status	49,327
Found Deportable	6,906
Granted Voluntary Departure	1,076
Order to Show Cause Issued	5,519

The next phase of the program, that of locating those students who failed to report as required by the President's directive, commenced immediately. First it was necessary to review all INS records relating to the students in question, matching field records with Central Office records in order to obtain the most current information possible on each student. When the matching is completed, the information is sent to the district office concerned for a follow-up investigation. Through February 1980, INS investigators had located some 759 deportable Iranian students.

Service employees have done their usual outstanding job in a time of crisis. The success of the program is due to the excellent attitude of Service personnel and the diligent effort on the part of all who are participating. There are those who doubted our ability to conduct this program, but INS people again demonstrated an ability to rise to the occasion and exert the extra effort necessary to carry out this assignment despite

numerous problems, limited manpower and limited resources.

With the experience gained from this program, INS is considering tighter controls on all foreign students in the U.S. Consideration is being given to requiring all foreign students to report to INS to verify their status and location, as was done with the Iranian students. Other changes under consideration are: requiring all students, who now are admitted for the duration of status, to report periodically to INS to obtain extensions of stay; establishing a central file containing copies of the records and documents of each student; and closer monitoring of schools approved for acceptance of foreign students to insure compliance with the law. ■

## Changes in the Regulations

Under Title 8, Code of Federal Regulations:

Consult 44 FR 65726, Nov. 14, 1979, Sections 214.1 and 214.5.

44 FR 75165, Dec. 19, 1979, Section 214.5(a).

45FR 6776, Jan. 30, 1980, Sections 282.1; 299.1 through 299.4; and 499.1.

45 FR 10312, Feb. 15, 1980, Section 238.4.

45 FR 10313, Feb. 15, 1980, Sections 334.16; 336.16; and 341.1.

45 FR 11113, Feb. 20, 1980, Section 212.6.

45 FR 13434, Feb. 29, 1980, Section 100.4(c)(2).

## Improving Telephone Service to the Public

By Neill J. McKay  
Program Manager  
Electronics Support  
Office of Operations Support

Virtually everyone in his or her lifetime has encountered a situation in which a request for service has been frustrated due to the lack of immediate facilities to serve his demand. When we shop, for example, we are often forced to wait until a clerk has finished with another customer; when attending the movies, we often have to "queue up" at the ticket window; during the height of the summer season on our way to a seashore resort, we wonder if we will ever reach the entrance to the thruway, bridge or tunnel; and when we call the nearest Immigration Service office for information, we wonder if we will ever get through! Each of these examples exhibits one factor in common: Momentarily, the demands for service exceed the facilities provided to accommodate them and, thus, some demands are not met.

This is the essence of what is called the "Traffic Problem" and in order to effectively solve it, sufficient information is required about the nature of the demands, the facilities available to satisfy these demands, and the meaning and importance of service objectives.

### Background

Two years ago, as part of the Model Office Project initiated at our Houston District Office, the Electronics Support Program was asked to investigate the telephone traffic problem at Service offices and explore ways of improving our telephone information service to the public. The project became known as

TIPS an acronym for Telephone Information Processing System.

The difficulty the public frequently experiences in contacting many of our District Offices by telephone is not a new situation. However, it has become increasingly exacerbated not only by the overwhelming number of calls for general information, but also repeated inquiries relating to large numbers of pending applications for benefits under the law. The latter have created huge backlogs in the records and adjudications activities, which have in turn caused telephone lines and circuits to become heavily congested in some areas. For example, a recent telephone company traffic survey of the information lines into the Los Angeles District Office indicated an average of 9,000 call attempts daily!

Anytime you have a large population requesting information and there are insufficient facilities (lines, equipment, personnel, etcetera) to accommodate the demand, you are going to have telephone circuit congestion. This occurs in many areas, such as when contacting train stations, airlines, department stores, and other government agencies.

However, because of the complexities of immigration law, generally there are few alternative sources for the information sought which encompasses a wide range of immigration subjects. Requests can vary from those of a general information nature to more complex inquiries in-

volving extensive, detailed responses.

INS telephone facilities were drastically inadequate and overloaded resulting in callers encountering excessive "busy" signals. There was no automatic answering mechanism either to handle callers in priority order or to place callers on hold until they could be handled. There was very little definition of the problem and scant data on its severity.

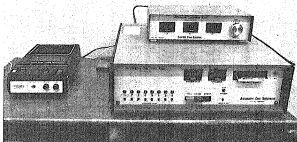
Thus, the TIPS Project is the first, concerted, longterm effort by INS to research and investigate the telephone problem, define and specify parameters, set specific and realistic measurable objectives of improvement, and explore alternatives to meeting these objectives.

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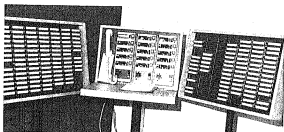
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### Objectives

In developing an effective Telephone Information Processing System it was determined that the ideal system would include the following objectives in order to achieve a desirable level of service: reducing the number of incoming calls; reducing the average duration of each call; in-



Automatic answering, sequencing and holding equipment at the Miami office. Shown on the right is an eight-line sequencer with an elapsed time counter on top. The latter monitors the time callers have been placed on hold and can provide an audible or visual alarm when specified holding times have been exceeded. On the left is a tape cassette containing pre-recorded general information which is played to those callers on hold.



An overall view of the tape library system in use at the Los Angeles office shows the tape player console situated in the center, with 15 slots for taped messages, and with the tape storage racks located on each side.

creasing the number of servers (lines and people); separating requests for application forms and general information from specific information required from a Contact Representative; continual adjustment of the size of the work force in accordance with the traffic load; and improving procedures for handling calls.

With these objectives in mind, we proceeded to install a telephone system which, first of all, provided additional lines and equipment to increase the call-handling capability. The system automatically answers calls, places them on hold, monitors the holding time, and handles them in priority order on a first-come, first-served basis. While on hold, prerecorded information such as office hours, number to call for forms and other general information, is played to the caller. In some offices, bilingual recorded information is played to accommodate the large number of Spanish-speaking persons who deal with INS.

In addition, the TIPS system provides a message center for automatically tape recording requests for forms and applications. The tapes are then transcribed by clerical personnel at off-peak hours. With the capability for monitoring telephone line activity and holding times, we are able to adjust the work force size in accordance with the traffic load. We

are also able to monitor the number of completed calls, the number of abandoned calls, average hold times and average service times, so that we can determine what, if any, additional steps should be taken to improve service.

#### Status of TIPS

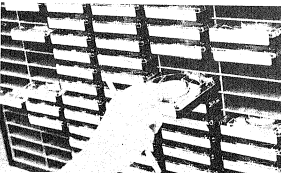
At present, TIPS systems have been installed in 13 District Offices around the country. It is planned to expand the program to additional offices in FY 1980 and FY 1981 as part of our continued efforts to improve service to the public.

To illustrate a measure of effectiveness of TIPS, the Atlanta District Office in September 1977, prior to TIPS, was handling on the average only 55 percent of all attempted calls. And, during the peak hours, was only handling 35 percent, with average

conversation and holding times of 3-4 minutes. After TIPS was implemented, 90 percent or greater of all attempted calls to this office, even during the busiest hours, were being handled with average conversation and holding times of two minutes.

To accomplish improved service, TIPS employs a judicious mixture of equipment, staffing, workload and procedures. At Atlanta, telephone lines were increased from two to four, and the number of available Contact Representatives also increased from two to four. However, the additional two Contact Representatives are used only during peak periods. Installation of one line for requesting "forms only", along with a message center has resulted in the processing of at least 40 requests for forms per day.

An added benefit has been the reduction in the number of calls received by operating units from individuals seeking information on the status of an application. TIPS has provided a more efficient information system of responding to callers, allowing them to receive attention with a minimum of waiting time.



The tape library holds 100 tapes, 50 in English and 50 in Spanish, containing general information on immigration and citizenship matters.



It is interesting to note that based on a traffic survey of the Atlanta Office, telephone company representatives recommended a minimum of seven servers on seven lines, 100 percent of the time, to achieve approximately the same level of service the Atlanta office is presently providing with just four servers, two of which are not utilized 100 percent of the time. However, one important result of this project was that many of the calls, prior to TIPS, were apparently due to repeated attempts by the same caller. These were effectively eliminated when an adequate system was established.

#### The Teletronix System

As a part of the TIPS project, we are now experimenting with a tape library system in providing extensive general information to the public. The system, entitled "Ask Immigration", combines the standard telephone system with a multichannel tape library system to provide information on immigration and citizenship matters. It was introduced in the Los Angeles office on October 22, 1979 and in the Miami office on November 14, 1979. INS is believed to be the first Federal agency to provide this type of service.

Information on selected general topics such as citizenship, adjustment of status, alien registration, extensions of stay, etcetera, are professionally prerecorded on numbered tape cassettes and played to the caller upon request. A total library of 100 tapes, 50 in English and 50 in Spanish, are being used initially by each office. Some 15,000 brochures, containing the tape library list and instructions, were disseminated to the public. The Miami office is presently handling approximately 350 additional calls per day with the new system.

When a person telephones to request information by tape number, an operator, usually a Contact Representative, selects the appropriate cassette and inserts it into a playback unit. The tape plays automatically, stops at the end of the mes-


sage, and may be adjusted to either disconnect the telephone line or place the caller on hold for additional information.

It is believed that a number of benefits are to be gained from the "Ask Immigration" concept. For example, one Contact Representative with the aid of taped information, can handle up to 15 telephone lines at one time. The recorded informa-


tion presents an accurate verbal essay of various typical immigration matters, at no cost to the public, which has been professionally prepared and reviewed by Immigration officials. The information is easily ac-

## ASK IMMIGRATION



## PREGUNTE A INMIGRACION



CALL

Ask IMM

8:00 A.M. - 6:00 P.M.

INS

IMM

U. S. IM

NATURALI

Llama al teléfono (305) 350-6741

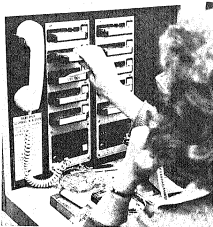
El horario de  
PREGUNTE A INMIGRACION es

De 8:00 a.m. a 6:00 p.m., de Lunes a Viernes

INFORMACION SOBRE  
INMIGRACION Y CIUDADANIA

**U. S. IMMIGRATION &  
NATURALIZATION SERVICE**

servicio de inmigración y de naturalización  
de los Estados Unidos



The tape is inserted into the playback unit which may be adjusted to either disconnect the telephone line or place the caller on hold for additional information following completion of the message.

cessible to the public, is continually updated, and anonymity of the caller is preserved. It also promotes good community relations and we are beginning to receive many compliments from callers who previously only received busy signals.

The Teletronix systems installed at our Los Angeles and Miami offices are undergoing evaluation and, if proven successful, is planned to expand the concept to other Service offices. Also, plans call for providing this capability in INS information and reception areas for use by walk-ins.

#### Conclusions and Future Considerations

It has been found that TIPS can definitely improve the telephone call-handling capability of a particular office by a suitable mix of equipment, staffing, workload, and procedures.

Similar types of improvements can be expected in other INS offices

presently under evaluation. The major difficulty in evaluating a system is securing the technical data and information which will assist in coming up with a solution. Since we are dealing with large numbers of diverse inquiries occurring at random times, we cannot just guess how many additional telephone lines are needed or how much increased staffing is needed. To arrive at an effective system requires a scientific analysis of all the ifs, ands, and buts, and we are continuing research to devise improved TIPS designs.

As telephone company-provided equipment becomes more sophisticated, the TIPS concepts will also benefit. For example, the day will come when an automatic call-back procedure will be possible. Callers to an office, who either encounter a busy signal or who after waiting a specified maximum time, would be automatically called back within a specified period of time. Another possibility is the automatic rerouting of calls to another office during extremely busy periods.

Since the INS Information Section

represents a microcosm of the entire district office, I would envision each office someday possessing its very own private automatic branch exchange (PABX). With a PABX to serve the entire district office, all incoming calls could be screened at the information center and routed to the appropriate contact to be disposed of quickly and efficiently. The PABX would automatically adapt itself to increases and decreases in traffic intensity, and management information data could be constantly monitored by a supervisor and the size of the work force dynamically adjusted. Calls could be identified as local or long distance and necessary action taken to insure minimum holding times.

Beyond the information center, the entire district office's activities would be significantly enhanced due to the many features of today's PABX's. ■

## Air Operations of the Border Patrol

By M. Dale Burt  
Chief Pilot  
Border Patrol  
El Paso, Texas

The air operations of the Border Patrol have changed very little over the years. Aircraft have been used as an enforcement tool since the early forties, and the one airplane which set the pattern for an effective air operation was the 1951 Piper Cub. With the horsepower increased from 65 to 150, this plane became known as the "Super Cub" and has proved so versatile, dependable and economical that it continues to excel over any other airplane for the type of work performed. It is depended upon as

the main airborne mobile platform of the Border Patrol.

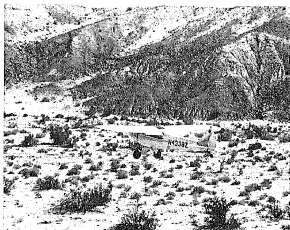
With the use of aircraft, the Border Patrol was able to establish a coordinated ground-air patrol which has proven to be very effective through the years in the overall enforcement efforts of the Service. Vast amounts of territory can be patrolled rapidly, eliminating unproductive and wasted efforts by ground units. The Border Patrol Pilot is able to direct ground units to productive areas with a minimum loss of time; he can assist in planning farm and ranch check operations by looking over country inaccessible to ground units; gather intelligence through observation of potential illegal entries; and relay information to ground units of possible undocumented aliens observed on freight trains and other conveyances. All of these air activities help in utilizing our manpower more efficiently.

#### Aerial Sign Cutting

Although all Border Patrol Agents learn to use sign cutting techniques in tracking illegal entrants, it is interesting to note that Border Patrol Pilots also use this skill which, I might add, is applied while traveling over the ground at 60 miles per hour in their Super Cubs. This is no small accomplishment when you consider he is moving along at 88 feet per second. Of course, aerial sign cutting requires a good knowledge of sign cutting from the ground. Therefore, some of the same techniques used on the ground are applied to aerial tracking procedures.

Certainly, the pilot has other considerations which dictate the success or lack of success in tracking individuals from the air. For example, he must consider airspeed, altitude, lighting conditions, turbulence, and terrain, while at the same time analyzing and interpreting whatever tracks are spotted below.

Experience teaches the pilot how to distinguish between fresh tracks and old, the effects of weather on the various sign, and whether several aliens are walking one behind the other or side by side. In addition, he



learns the territory thoroughly so that he is continually oriented, knows the best places for cutting sign, the probable routes of aliens, locations of fences, roads and landmarks, as well as the farms and ranches in the area.

With all of these things which must be considered, the pilot soon learns to fly his aircraft by instinct. He knows his limitations and capabilities, as well as that of his aircraft.

#### Air-Ground Teamwork

A normal air-ground operation will have both the pilot and the ground unit cutting sign, looking for evidence of illegal crossings. A typical trail of aliens is five, crossing just at dark. The Border Patrol Agent may have already cut the sign of the five aliens across his drag road and advised the pilot by radio of the location, description, and general direction.

As the Agent walks or drives along the tracks, he keeps the pilot informed of any change in direction or of changes in the sign, such as lack of rain drops or blown sand in the tracks. Lack of dirt from dew or absence of night crawling creatures are all clues to the sign cutter.

The pilot, flying ahead of the tracker, looks for additional sign of

Border Patrol Pilots will skim the desert in their Super Cubs, looking for tracks of illegal border crossers.

illegal entrants, and along the way checks tanks and windmills where aliens may have taken refuge for the day to remain out of the heat. If the pilot locates the aliens, he radios for the ground unit to come in and circles the area until the unit shows up.

The methods used by undocumented aliens to reach their destinations in the U.S. interior are becoming increasingly more ingenious. They cross the desert during periods of strong winds or when it is raining or snowing, so they won't leave any signs. Frequently, they walk single file, stepping in each others tracks, jumping across roads, brushing tracks out as they cross roads and fences, and walking backwards to make the Patrol Agent believe he is headed toward Mexico rather than the U.S. These are just some of the ruses he will use to elude apprehension, but air-ground teams take all of these elements into consideration in determining whether to continue the pursuit.



Air and ground units work as a team in locating illegal border crossers. With the pilot tracking ahead of the ground unit, he can spot the location of the aliens and relay the information back so that the unit can move directly to the spot with no waste in time or effort. (Photo by Don Donnan)



#### Chief Pilot

With a compliment of 50 pilots, 28 fixed wing aircraft, and three Hughes helicopters, spread over some 10 Border Patrol Sectors on the southern border, INS decided that a Chief Pilot was needed to coordinate the Air Operations Program of the Service. Although all Border Patrol Pilots serve under the direct supervision of the Chief Patrol Agent of the Sector, there are many technical areas of the

program which require guidance and direction from an experienced pilot.

Thus, in November 1978, a Chief Pilot position was established under the Assistant Commissioner, Border Patrol, in the Central Office. However, the position was physically placed at Border Patrol Sector Headquarters in El Paso, Texas, rather than in Washington, D.C., so that the Chief Pilot would be accessible to the pilots and vice versa.

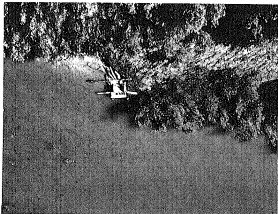
The Chief Pilot is responsible for pilot proficiency checks, pilot training, testing applicants, inspection of aircraft and maintenance facilities, and investigation of accidents or incidents. He also maintains liaison with the various Sector Chiefs, providing assistance in evaluating the assignment of aircraft and pilots, and recommending changes, where appropriate.

#### Pilot Selection

All pilots are selected from qualified applicants through the Service's Merit Promotion Plan. He must have logged a minimum of 1500 hours flight time, including 250 hours pilot-in-command hours in fixed wing aircraft, and have flown 100 hours in the last year. The applicant must also hold a valid commercial pilot's license, an instrument rating, and a first class airman physical.

The position of helicopter pilot is filled in the same manner as fixed wing pilots except an applicant must have logged 1500 hours, including 250 pilot-in-command hours in helicopters. The 100 hours in the last year may be in any aircraft. Since the Hughes 500C Helicopter is not certificated by the manufacturer for instrument flying, helicopter pilots are not required to have an instrument rating. However, if a helicopter pilot wants to become an aircraft pilot, that is flying both fixed wing and helicopters, then he must meet all of the other requirements mentioned.

Following selection of an applicant for a pilot position, he must first undergo an inflight evaluation by the Chief Pilot. Among other things, this involves an instrument proficiency



A homemade rail, spotted from the air, appears ready for use in crossing the Rio Grande to the United States.

check to determine the ability of the applicant to fly by instruments only.

The journeyman Border Patrol Pilot in addition to his flight duties, must maintain instrument proficiency as well as night qualification. This is Service policy as well as an FAA requirement. Also, a Biennial Flight Review is given in accordance with FAA regulation. The Border Patrol check pilot must be a certificated Flight Instructor in order to administer the check rides and sign each Pilot's log book to indicate he meets the minimum FAA requirements.

A newly selected pilot will receive on-the-job training as he progresses through his first year of flying. Although he may be a very competent, experienced pilot, the type of flying performed for the Border Patrol is more critical and demanding. For one thing, the new pilot has altitude and speed limitations placed on him which will require his working slowly toward performing the type of flying that will allow him to use his aircraft to its fullest potential.

Thus, the first year is spent in training; learning how to apply his knowledge of flying, his experience as a Patrol Agent and his knowledge of the Sector. Each pilot will have to learn his own capability and those of the aircraft he flies. He has to rely on his sense of touch to be able to fly his aircraft at slow speeds and remain above the stall speed while attention is diverted outside of his aircraft. He has to learn how to work with ground units. He has to know how to direct these units and use them in the most effective way to accomplish the mission.

An important part of the pilot's job is to understand and gain the cooperation and support of the Patrol Agents he works with everyday. Without good rapport, neither the pilot nor the ground team will be able to function effectively in their jobs.

#### Aircraft

In addition to the Super Cub mentioned earlier, we have the Cessna 182 which has been in use since 1958. This aircraft has proven to be very dependable for farm and ranch check operations. Since the seating is side by side, and the stall speed is higher than that of the Super Cub, it cannot be used as successfully for sign cutting. However, equipped with long-range fuel tanks, this aircraft allows pilots to respond to remote areas and spend longer times on station without refueling.

In about 1970, a private company invented a way to reduce stall speed, increase cruise speed and give an aircraft better slow flight characteristics. After factory demonstrations proving their claims, the Service included the modification on all of their subsequent purchases of Cessnas.

The Super Cub remains basically the same since it was designed in the late thirties. The airframe and wing have been strengthened to accommodate the 150 horsepower engine.

Flaps have been installed to decrease stall speed from 47 miles per hour to 43 miles per hour.

Over the years, the Service has tested many aircraft which have been advertised to equal or better the Super Cub. None, however, have the superior slow flight characteristics desirable for Border Patrol use.

The helicopter has been suggested for many years as a replacement for the Cub and, eventually it may, when there are no longer Cubs available.

The Chula Vista Border Patrol Sector has two Hughes 500C Helicopters which have proven to be very effective. Equipped with a high-powered search light for night operations, the helicopter responds quickly to sensors and to assistance calls from Patrol Agents. The noise it makes while in operation is a deterrent to illegal entry, and allows the ground units a certain amount of flexibility when it is in the area.

The El Paso Border Patrol Sector has been evaluating an OH-6A military version of the 500C Helicopter



The beamwork of Border Patrol air and ground units as it flushed some aliens from the thick brush.



Alpines and Helicopter Pilots confer on the activity in the area to be patrolled. The two rarely fly together; the fixed wing aircraft is used mainly during the day and the helicopter at night.

since June 1979. There have been some problems due to the 4,000 feet altitude of the area. Summer temperatures cause a density altitude of 7,000-8,000 feet which has an effect on the lift characteristics and causes high engine temperatures. However, it is believed with increased horsepower, these problems can be overcome.

In October 1979, the El Paso helicopter only flew 14 or 31 days, but assisted in 28 percent of the apprehensions during that month.

During FY 1979, helicopter patrol at Chula Vista accounted for 51,494 apprehension assists. In addition to its regular duties, frequently the helicopter is called upon to assist local law enforcement officers. Three recent incidents come to mind in which the helicopter was called in to assist the San Diego Police Department in making felony arrests.

The first incident occurred on July 12, 1979, when a group of undocumented aliens were apprehended in the area of Sunset Avenue and San Ysidro Boulevard. The group claimed they had been robbed by a male suspect in the area of the horse corrals on Calle Primero. The San Diego Police began a search of the area and, at the same time, requested assistance of the Border Patrol helicopter. The helicopter arrived at the

scene and almost immediately flushed out the suspect, who was apprehended and positively identified as the robber.

Another robbery incident occurred two days later in the area of the riverbottom at Sunset Avenue and Hollister Street. A group of undocumented aliens who were apprehended by the Border Patrol complained they had been robbed by several armed men near a campsite in the riverbottom. The San Diego Police were notified and two units were sent to investigate. The Border Patrol helicopter was called in, and along with a Border Patrol ground team and the local police, located two armed men who were taken into custody and identified.

The third incident occurred on August 11, 1979, when Border Patrol Agents working the levee heard gunshots coming from a field where numerous alien robberies have occurred in the past. The Border Patrol Agents notified the San Diego Police and assisted in surrounding the field to await the arrival of the helicopter. It arrived shortly, swept the field area with its spotlight, causing several

male juveniles to flee on foot from their hiding place. The police and Border Patrol units converged on the group and apprehended four suspects, one of which was armed with a sawed-off rifle. All were arrested.

These are but a few examples of the mutual cooperation which exists between the Border Patrol and local authorities. Such cooperation is experienced in most every community where the Border Patrol coexists with other law enforcement agencies.

With an aerial observation capability, the Border Patrol is able to work more efficiently and effectively in its efforts to deter and prevent illegal entries. Throughout the years, the Air Operations Program has been of major benefit to Service efforts in carrying out its enforcement responsibilities. ■

## Administrative Decisions

(Due to space limitations it is possible to print only an index and identifying paragraph on each precedent decision. Copies of the decisions may be seen at any local office of the Immigration and Naturalization Service. Copies may also be purchased on a yearly subscription basis (\$50. per year, \$12. extra for foreign mailing) from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. The Decisions will be printed later in bound volume form. Volumes of past Administrative Decisions are on sale at the Government Printing Office in Washington. **Note: Decisions missing from the numerical sequence have not at this printing been released for publication.**)

**Number 2650-Matter of Davis.** In Exclusion Proceedings A-7449011. Decided by BIA May 24, 1978.

(1) In cases involving loss of American citizenship, the law and the facts are to be construed as far as reasonably possible in favor of the claimant.

(2) Under the provisions of section 349(c) of the Immigration and Nationality Act, the burden is on the one asserting that a loss of citizenship occurred to prove that claim by a preponderance of the evidence.

(3) A voluntary renunciation of nationality in accordance with section 401(f) of the Nationality Act of 1940 (section 349(a)(6), Immigration and Nationality Act), was effective to accomplish expatriation even if the former citizen did not acquire another nationality, and became stateless.

(4) An Oath of Renunciation pursuant to section 401(f) of the Nationality Act of 1940 accomplished expatriation where there was a specific intent to renounce all allegiance to the United States and to become a "world" citizen.

(5) Since the United States is not a signatory to the United Nations Convention on the Reduction of Statelessness, U.N. Doc. A/CONF. 9/15 (August 29, 1961), its provisions have no applicability to loss of United States citizenship. Even if this were not the case, the Convention provides for voluntary renunciation of citizenship with resulting statelessness "where the national... gives definite evidence of his determination to repudiate his allegiance."

(6) One who has lost United States citizenship by a voluntary oath of renunciation is no longer a national of the United States since a renunciation of citizenship embraces a renunciation of American nationality as well.

(7) Former citizen who executed an Oath of Renunciation of United States citizenship in 1948 to become a citizen of the world, who left the United States in 1961 and lived abroad for many years after his reentry permit expired, remarried in France, established a business, had three children

born in that country, and entered the United States as a visitor in 1976, 1976 and 1977, held to have abandoned his status as a lawful permanent resident alien.

**Number 2652-Matter of Siquerros.** In Exclusion Proceedings A-17176637. Decided by BIA May 24, 1978.

(1) The fact that a lawful permanent resident commuter is only working part time in this country, while he attends a United States school, does not cause him to necessarily lose his lawful permanent resident status.

(2) Former commuter who lives in rented trailer while attending college, where he has regular part-time employment, and who visits family in Mexico on weekends, held to have established a residence in the United States and to be no longer a commuter.

**Number 2653-Matter of Yam.** In Deportation Proceedings A-15550259. Decided by BIA May 30, 1978.

(1) An alien does not effect an entry into the United States unless, while free from actual or constructive restraint, he crosses into the territory of the United States and is inspected and admitted by an immigration officer, or actually or intentionally evades inspection at the nearest inspection point.

(2) An alien found floating in Niagara River, and brought by police while unconscious to a hospital in the United States where he was turned over to the Border Patrol, did not effect an entry.

(3) Deportation proceedings ordered terminated as to alien found in Niagara River and brought into the United States while unconscious, since exclusion was the proper procedure.

**Number 2654-Matter of Rehmani.** In Visa Petition Proceedings A-17019159. Decided by BIA June 26, 1978.

A determination by an immigration judge in rescission proceedings that an alien was accorded nonquota status as the spouse of a United States citizen by reason of a non-

viable marriage does not preclude the alien under section 204(c) of the Immigration and Nationality Act, 8 U.S.C. 1154(c), from obtaining immigration status under a new visa petition since it does not follow from the fact that a marriage is nonviable that it was entered into for the purpose of evading the immigration laws.

**Number 2655-Matter of Au Yeung.** In Visa Petition Proceedings A-13556216. Decided by BIA June 28, 1978.

(1) The Board of Immigration Appeals does not have jurisdiction to consider whether a beneficiary of a visa petition, who was once accorded lawful permanent resident status, has abandoned that status, when the Board has before it an appeal from the denial of a visa petition.

(2) An alien, who is admitted to the United States as an "eligible orphan" pursuant to section 101(b)(1)(F) of the Act, and is never adopted by the petitioning United States citizen "parent," and who leaves the United States, is not eligible for preference status as the "son" of the petitioning United States citizen "parent" since that relationship never came into existence.

**Number 2656-Matter of Men.** In Visa Petition Proceedings A-21080157. Decided by BIA June 29, 1978.

A concubine (*tsip*) cannot derive an immigration benefit through children born to her "husband" and his principal wife, and a visa petition by the "child" in behalf of the claimed "stepmother" will be denied since the sole relationship between the parties is the polygamous "marriage."

**Number 2657-Matter of Agdinoosy.** In Visa Petition Proceedings A-31346917. Decided by BIA June 30, 1978.

A finding of deportability under section 241(c)(2) of the Act, 8 U.S.C. 1251(c)(2), in a final order of deportation provides a clear and substantial basis for a District Director's determination that the section 204(c) bar precludes the respondent from thereafter being accorded a nonquota or

visa preference status, absent evidence of any gross miscarriage of justice sufficient to support a collateral attack on the prior deportation proceedings.

**Number 2658-Matter of Konishi. In Deportation Proceedings A-19807195. Decided by BIA July 5, 1978.**

Self-employed professional artist does not qualify for exemption from the labor certification requirements of section 212(a)(14) as an investor where "investment" consists solely of an inventory of his own paintings along with the furnishings for a one-man gallery because the gallery is the mere conduit for the sale of the products of the alien's own labor and no showing is made that the "business" would expand job opportunities so as to offset any adverse impact of his employment.

**Number 2659-Matter of DeJong. In Exclusion Proceedings A-22461648. Decided by BIA July 14, 1978.**

(1) Under section 235(b) of the Immigration and Nationality Act, an Immigration Judge did not have jurisdiction to consider the admissibility of the "alien crew members" of M/V Dosina, an oil tanker which operated as a lightering vessel, off the coast of California, who had applied for temporary permission to land as "alien crewmen."

(2) When the Immigration Inspector found that the alien crew members did not qualify as "bona fide crewmen," the proper procedure was to refuse them conditional landing permits. See 8 CFR 252.1(g).

**Number 2661-Matter of Spiliopoulos. In Bond Proceedings A-21137443. Decided by BIA July 20, 1978.**

(1) The jurisdiction conferred upon an Immigration Judge under 8 CFR 242.2(b) to redetermine the custody status of a detained alien includes the authority to increase the amount of bond initially set by the District Director.

(2) An alien should not be detained to post bond unless there is a finding that he is a threat to national security or a poor bail risk.

(3) Where respondent, an airlines employee, resided in this country a relatively brief period of time (one year), exhibited a disregard for our laws by beginning to work shortly after he was admitted as a nonimmigrant visitor for pleasure, has a wife and child who are here illegally and does not have the family ties that would entitle him to reside here permanently at some future date, a bond was appropriate.

(4) Reduction in amount of bond found warranted by Board, where there was a lack of any prior immigration or criminal record or history of nonappearance at court proceedings and respondent has a fixed place of residence.

**Number 2666-Matter of Marin. In Deportation Proceedings A-13923847. Decided by BIA August 4, 1978.**

(1) An application for discretionary relief under section 212(c) of the Act necessitates a balancing of the adverse factors of record evidencing an alien's undesirability as a permanent resident with the social and humane considerations presented in his behalf to determine whether the granting of relief is in the best interests of this country.

(2) A statutorily eligible applicant who has the right to apply for relief under section 212(c) must be given the reasonable opportunity to come forward with favorable considerations which may offset the adverse matters of record.

(3) The equities that an applicant for relief under section 212(c) must bring forward to establish that favorable discretionary action is warranted will depend in each case on the nature and circumstances of the ground of exclusion sought waived and on the presence of any additional adverse factors (factors previously deemed favorable and unfavorable set forth).

(4) An applicant for discretionary relief under section 212(c) who has been convicted of a serious drug offense must demonstrate "unusual" or "outstanding" countervailing equities before a favorable exercise of discretion will be considered.

(5) An applicant for relief under section 212(c) has a criminal record will ordinarily be required to make a showing of rehabilitation before relief will be granted as a matter of discretion.

(6) There is no irrebuttable presumption that a confined or recently convicted alien can never establish either that rehabilitation has occurred or that relief under section 212(c) should otherwise be granted.

(7) The recency of a conviction and the fact of confinement are matters relevant to the consideration of whether an alien has demonstrated his rehabilitation and whether relief should be granted as a matter of discretion.

(8) A District Director is not required to withhold the issuance of an Order to Show Cause in the case of a confined or recently convicted alien who is statutorily eligible for relief under section 212(c) in order to provide the alien a better opportunity to demonstrate his rehabilitation.

(9) The decision to institute deportation proceedings is vested in the discretion of the District Director and the Board of Immigration Appeals is not the proper forum in which to seek a review of the rationale underlying a District Director's decision in this regard.

**Number 2667-Matter of Pereyra. In Deportation Proceedings A-21036029. Decided by BIA August 10, 1978.**

An exchange visitor who is no longer subject to the foreign residence requirement in view of the amendment of section 212(e) of the Immigration and Nationality Act is not precluded from establishing statutory eligibility for suspension of deportation notwithstanding the provisions of section 244(f)(2) barring exchange visitors from that relief.

**Number 2674-Matter of Shen. In Visa Petition Proceedings A-21676973. Decided by BIA October 4, 1978.**

(1) As a general rule, a visa petition submitted by a mother on behalf of a child, regardless of the beneficiary's age, must be accompanied by the



birth certificate of the child showing the name of the mother.

(2) Since birth certificates are non-existent or unavailable in many countries, the Immigration and Naturalization Service may require secondary evidence in support of a visa petition such as civil, church or school records, and photographs, as well as proof of unsuccessful efforts to obtain documentation.

(3) For persons born in Taiwan, an extract of household registration (showing the birth date and the names of the parents of each household member) is an official record comparable to a birth certificate for the purpose of establishing that the parties to a visa petition proceeding are mother and child.

(4) Where the petitioner failed to submit a Taiwanese extract of household registration respecting the birth of the child beneficiary but did submit supporting affidavits, a divorce agreement, and a renunciation of guardianship, case remanded to allow petitioner reasonable opportunity to submit additional evidence such as the extract of household registration or to explain its unavailability.

**Number 2675-Matter of De Lomba. In Deportation Proceedings A-30442750. Decided by BIA July 14, 1978.**

(1) An alien found deportable under section 241(a)(2) and section 241(c) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(2) and 8 U.S.C. 1251(c)) for having entered the United States by means of a fraudulent marriage, who was not otherwise inadmissible, may invoke section 241(f) nondeportability. *Matter of Diniz*, Interim Decision 2428 (BIA 1975), reversed.

(2) Section 241(f) forgives deportability under section 241(c), a charge grounded squarely on section 212(a)(19), 8 U.S.C. 1182(a)(19).

(3) Section 241(f) forgives deportability under sections 241(a)(1) and 212(a)(20) when there has been compliance with the immigrant visa requirements and the entry document is invalid because of fraud.

(4) Section 241(f) does not forgive deportability under sections 241(a)(1) and 212(a)(14).

**Number 2676-Matter of Chheav. In Deportation Proceedings A-22417010. Decided by BIA October 18, 1978.**

(1) An alien seeking adjustment of status as a nonprincipal alien under the provisions of the Act of October 28, 1977, Public Law 95-145, 91 Stat. 1223, relating to spouses and children of Indochinese refugees need not have an approved visa petition as a prerequisite for that relief.

(2) Adjustment of status will be granted under the provisions of Public Law 95-145 to one claiming eligibility as the spouse of an Indochinese refugee eligible for relief under that Act as a principal only upon a showing that the marriage is one recognizable for immigration purposes.

**Number 2677-Matter of Garcia. In Visa Petition Proceedings A-21304828. Decided by BIA November 16, 1978.**

(1) Under the provisions of the Texas Family Code, Section 1.91, a common-law marriage may be shown by establishing three factors: (1) an agreement by the parties to be married, (2) living together in Texas after representation to others by the parties that they are married.

(2) Under the Texas Family Code, Section 1.91(b), the agreement of the parties to be married may be inferred if it is proved that they lived together as husband and wife and represented to others that they were married.

(3) In a Texas common-law marriage, agreement is fundamental and cohabitation is an element, but holding out to the public that two persons are husband and wife is essential. *McChesney v. Johnson*, 78 S.W. 2d 658 (Civ. App. 1935).

(4) Where Immigration and Naturalization Service offered as proof of a prior undissolved common-law marriage, only the birth certificates of petitioner's five children listing the purported common-law husband as the father, and the petitioner as the one providing the information, the proof of holding out and cohabita-

tion was inadequate, and the petition will be approved.

(5) Under Texas law, reputation and cohabitation are at best only presumptive proofs of common-law marriage and where either of those grounds fails, it is not correct to build the presumption of marriage on the other. *McArthur v. Hall*, 169 S.W. 2d 724 (Civ. App. 1943). ■

**Number 2678-Matter of Carrillo. In Deportation Proceedings A-31073471. Decided by BIA, Nov. 28, 1978.**

An alien convicted of "Unlawful Carrying of a Firearm during the Commission of a Felony" (18 U.S.C. 924(c)) is not deportable under section 241(a)(11) of the Immigration and Nationality Act, 8 U.S.C. 1251(a)(11), even though the underlying felony is the illicit possession of heroin, since 18 U.S.C. 924(c) is not "a law . . . relating to the illicit possession of a narcotic drug." *Cesalade de Eper v. INS*, 557 F.2d 79 (8 Cir. 1977) and *Matter of Velasco*, Interim Decision 2601 (BIA 1977) followed. *Matter of Chang*, Interim Decision 2550 (BIA 1977) distinguished.

**Number 2679-Matter of Chum-pitzi. In Deportation Proceedings, A19 654 637. Decided by BIA, Nov. 20, 1978.**

(1) An alien, found deportable as a nonimmigrant visitor who remained in the United States beyond the period of his authorized stay, is precluded from relief under Article 32 of the United Nations Convention Relating to the Status of Refugees, which is limited to aliens lawfully in the United States.

(2) The provisions of Article 33 of the United Nations Convention Relating to the Status of Refugees have not changed the rights and remedies of an alien in deportation proceedings under section 243(h) of the Immigration and Nationality Act, 8 U.S.C. 1253(h). *Matter of Dunar*, 14 I&N Dec. 310 (BIA 1973), reaffirmed.

(3) An immigration judge does not have the authority to consider re-

quests for asylum in deportation proceedings since by regulation jurisdiction over such applications has been placed in the District Director. *Matter of Exantus and Pierre*, Interim Decision 2622 (BIA 1977), modified.

(4) A tax levied on all citizens of Peru who travel outside of that country is not persecution on account of race, religion, nationality, membership in a particular social group, or political belief, as contemplated by section 243(h) of the Immigration and Nationality Act.

(5) A claim to persecution under section 243(h) must be supported by evidence which is material, rather than by generalized undocumented assertions by the applicant. *Corolan v. INS*, 559 F.2d 993 (5 Cir. 1977), distinguished.

(6) A delay by the Service of five years in acting upon an asylum application was not "affirmative misconduct" amounting to estoppel since the respondent was not directly deprived of any entitlement he had under the immigration laws, and he was given the opportunity to fully elucidate the bases for his fear of persecution in Peru at his deportation hearing.

(7) The loss of a job and the concomitant financial loss incurred is not "extreme hardship" within the meaning of section 244 of the Act, 8 U.S.C. 1254, despite an 11-year stay in the United States.

**Number 2682-Matter of Wong. In Visa Petition Proceedings, A-21323067, A-21323068. Decided by BIA, Dec. 6, 1978.**

(1) Under the provisions of Article 15 of the Marriage Law of the People's Republic of China, all children born in China are legitimate from birth. See *Chin Lau v. Kiley*, 583 F.2d 542 (2 Cir. 1977). *Matter of Lo*, 14 I&N 379 (BIA 1973), overruled.

(2) Notwithstanding the legislative legitimation of all children born in the People's Republic of China, a parent-child relationship must be proved for visa petition purposes by suitable evidence, including a birth certificate where available.

(3) Birth records are available for persons born in the People's Republic of China and should be presented in the case of a visa petition submitted by a father on behalf of his child born out of wedlock, in the absence of proof of unsuccessful efforts to obtain documents.

**Number 2683-Matter of Meloney. In Visa Petition Proceedings, A-22560105. Decided by BIA, Dec. 21, 1978.**

(1) Under the Constitution of Panama of March 1, 1946, and its implementing Law of September 30, 1946, all acknowledged children are to be treated equally and considered legitimate, regardless of whether or not the natural parents ever marry.

(2) The right of legitimation extends to those born before March 2, 1946. To preserve this right, in cases where paternity has not previously been acknowledged in the birth records, it is only necessary for the father to rectify the birth registration in the Civil Registry.

(3) Where petitioner acknowledged his paternity of illegitimate child before officials of the Civil Registry in Panama in 1937, 13 days after the birth of the beneficiary, legitimation occurred on that date under the law of Panama.

**Number 2684-Matter of Garcia. In Deportation Proceedings, A-20066063. Decided by BIA, Dec. 27, 1978.**

(1) Rule that reopening of proceedings will be denied absent a prima facie showing that the statutory requirements for relief have been met must be reexamined as to adjustment of status in view of the amendment of 8 C.F.R. 245.2(a)(2) permitting an adjustment application, filed with a visa petition, to be retained if later approval of the petition would make a visa available at time of filing.

(2) 8 C.F.R. 245.2(a)(2), permitting simultaneous filing of an application for adjustment of status and a visa petition, applies both before and after the issuance of an Order to Show Cause.

The Service policy permits a prima facie qualified beneficiary of a visa petition to remain in the United States pending final adjudication of the petition and an adjustment application.

(4) Unless clear ineligibility is apparent in the record, the Board shall generally grant motions to reopen in cases involving an application for adjustment of status filed simultaneously with a visa petition pursuant to 8 C.F.R. 245.2(a)(2), notwithstanding the fact that the petition has not yet been adjudicated.

(5) An immigration judge may, in his discretion, grant a motion to reopen or a request for a continuance of a deportation hearing pending final adjudication of a visa petition filed simultaneously with an adjustment application under 8 C.F.R. 245.2(a)(2) where a prima facie approvable visa petition and adjustment application have been submitted to him. *Matter of Kotte*, Interim Decision 2634 (BIA 1978) clarified.

**Number 2685-Matter of Esfandliery. In Deportation Proceedings, A-18815373. Decided by BIA, Jan. 17, 1979.**

(1) The first step in determining whether a crime involves moral turpitude is to determine from the record of conviction what law, or portion of law, was violated.

(2) When a statute encompasses both violations which do and those that do not necessarily involve moral turpitude, the record of conviction (i.e., the charge, plea, verdict and sentence) must be examined for a determination of whether the crime committed involves moral turpitude.

(3) Where respondent's conviction of malicious trespass under Florida law required a finding of an intent to commit petit larceny, a crime involving moral turpitude, the conviction is for a crime involving moral turpitude within the meaning of section 241(a)(4) of the Immigration and Nationality Act, 8 U.S.C. 1251 (a)(4).

